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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

TRUSTEES of the NORTHERN NEVADA
OPERATING ENGINEERS HEALTH &
WELFARE TRUST FUND, et al.

Case No. 3:09-cv-00347-RCJ-VPC

Plaintiffs,
vs.

**NOTICE OF VOLUNTARY
DISMISSAL WITH PREJUDICE**

CRUZ EXCAVATING, INC., a California
corporation; ZEPHYR COMPANIES, INC., a
Nevada corporation; SCOTT FREIDUS; DOES 1
-100; and BLACK AND WHITE COMPANIES
101-200;

AND

**STIPULATION FOR
VOLUNTARY DISMISSAL WITH
PREJUDICE**

Defendants.

NOTICE IS HEREBY GIVEN, pursuant to Federal Rule of Civil Procedure
41(a)(1)(A)(i), that Plaintiffs, above-named, hereby voluntarily dismiss the above-entitled action
with prejudice with each party to bear its own costs and attorneys' fees;

The above notice of voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) is appropriate
because Default (#9) was entered against all Defendants by the Clerk on August 19, 2009, and
has not been set aside. Plaintiffs contend, and Defendants agree, that Defendants' subsequently-
filed Answer (#18) is a nullity because Defendants are in default. Furthermore, Plaintiffs, above-
named, and Defendants, above-named, through their respective undersigned counsel of record,
pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), hereby stipulate that the above-

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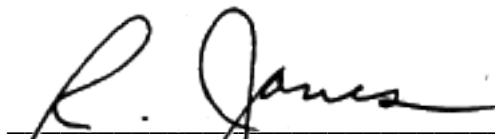
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1 entitled action shall be dismissed with prejudice with each party to bear its own costs and
2 attorneys' fees.

3 IT IS FURTHER ORDERED that [22] Defendants' FRCP 55 Motion to Set Aside
4 Default and FRCP 60 Motion for Relief from Default Judgment is GRANTED.

5 IT IS FURTHER ORDERED that Oral Argument set for Monday, January 9,
6 2012 is VACATED.

7 IT IS SO ORDERED.

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10 

11 ROBERT C. JONES

12 DATED: This 27th day of October, 2011.

JENKINS & CARTER

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CERTIFICATE OF SERVICE

I certify that I am an employee of JENKINS & CARTER and that on this date the within document entitled **NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE AND STIPULATION FOR VOLUNTARY DISMISSAL WITH PREJUDICE** was electronically filed with the Clerk of the Court using the CM/ECF system, which will automatically e-serve the same on the attorney of record set forth below:

John L. Shadek, Esq.
Devon T. Reese, Esq.
Shadek Reese, Ltd.
590 Lakeshore Blvd
Incline village, NV 89451

DATED this 27 day of September, 2011.



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